

## Message Text

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ACTION EB-07

INFO OCT-01 IO-10 ISO-00 JUSE-00 L-02 FRB-01 OMB-01 TAR-01

SP-02 AGR-10 AID-05 CIAE-00 COME-00 INR-07 LAB-04

NSAE-00 OIC-02 SIL-01 STR-04 TRSE-00 CIEP-02 CEA-01

AF-06 ARA-10 EA-10 EUR-12 NEA-09 SSO-00 NSCE-00

INRE-00 /108 W

----- 035184

O 060935Z MAY 75

FM USMISSION GENEVA

TO SECSTATE WASHDC NIACT IMMEDIATE 2643

UNCLAS SECTION 1 OF 2 GENEVA 3226

DEPT PASS JUSTICE DEPT/DAVIDSON; PATENT OFFICE/KIRK; L/FELDMAN &  
SCHWEBEL; EB/BP - BUSHNELL

E.O. 11652: N/A

TAGS: UNCTAD

SUBJECT: UNCTAD CODE OF CONDUCT ON TRANSFER OF TECHNOLOGY

1. SUMMARY: ON FIRST DAY, GROUP OF EXPERTS OFFICIALS CHOSEN.  
GROUP OF 77 WILL TABLE TOMORROW A DETAILED PROPOSAL FOR A CODE OF  
CONDUCT WHICH THEY WILL INSIST ON MAKING BASIS OF DISCUSSION OVER  
NEXT TWO WEEKS. G-77 OBJECTIVE IS TO REPORT OUT DETAILED AND  
COMPLETE CODE OF CONDUCT WHICH, AS ENVISAGED BY G-77, WOULD BE  
BINDING IN VENTURE.

2. AT MONDAY MORNING PLENARY OFFICERS WERE ELECTED: CHAIRMAN -  
IVAN SRONEK OF CZECHOSLOVAKIA; RAPPORTEUR - ROBERT ALLEN OF THE  
U.S.; AND THREE VICE CHAIRMAN FROM G-77. GROUP B COORDINATOR IS  
MAKOTO TANIGUCHI OF JAPAN. AFTERNOON DEVOTED TO GROUP MEETINGS,  
FOLLOWING SUGGESTION OF SRONEK, TO ALLOW TIME TO CONSIDER LATE  
SECRETARIAT DOCUMENTS.

3. USDEL HAS LEARNED THAT G-77 PLANS TO TABLE DRAFT CODE OF CON-  
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DUCT BASED ON PUGWASH CODE AS WELL AS ADDITIONAL PROVISIONS LARGEMLY

OBJECTIONABLE. IMMEDIATE ISSUE FACING GROUP B IS HOW TO REACT TO THIS DRAFT. SEVERAL APPROACHES WERE CONSIDERED: (A) GROUP B'S ORIGINAL UNDERSTANDING (LAST FRIDAY) WAS TO USE SECRETARIAT'S DOCUMENT (TD/B/C.6/AC.1/2/SUPP.1) AS BASIS FOR GENERAL DISCUSSION OF ISSUES INVOLVED IN DRAFTING CODE, WITH ASSUMPTION THAT ANOTHER EXPERT'S MEETING WOULD BE REQUIRED TO ACTUALLY WORK ON DRAFT LANGUAGE OF CODE. (B) CERTAIN DELEGATES IN GROUP B, INCLUDING USDEL, SUGGESTED CONSIDERING SUBMISSION OF STATEMENT OF PRINCIPLES, USING AS BASIS USG STATEMENT OF PRINCIPLES ON TRANSFER OF TECHNOLOGY (DATED JAN. 27, 1975) WHICH WAS DISTRIBUTED AMONGST GROUP B. THIS WOULD AVOID HAVING ONLY G-77 DRAFT ON TABLE, AND MIGHT RESULT IN TWO DRAFTS AT CONCLUSION FOR FUTURE CONSIDERATION WHEN FINAL REPORT IS SUBMITTED TO UNCTAD'S PERMANENT COMMITTEE ON TRANSFER OF TECHNOLOGY. THE G-77, OF COURSE, WILL OPPOSE OUR STATEMENT AS STRONGLY AS WE DO THEIRS. MANY MEMBERS OF GROUP B SHOWED CONSIDERABLE INTEREST IN TABLING STATEMENT OF PRINCIPLES AND FORMED WORKING PARTY TO REVIEW USG PAPER. FINAL PAPER WILL BE CABLED IF SUBSTANTIALLY DIFFERENT FROM ORIGINAL USG STATEMENT. (C) USE G-77 DOCUMENT AS BASIS FOR DISCUSSION. QUESTION HERE IS WHETHER TO OPEN DISCUSSION (INCLUDING OUR PARTICIPATION) TO ACTUAL DRAFTING OF LANGUAGE, WITH RESULT BEING A DRAFT CODE WITH MANY BRACKETED ITEMS OR DIRECT BROAD CRITICISM AT OBJECTIONABLE PROVISIONS IN G-77 DRAFT, WITH RESULT THAT GROUP B, OR USDEL, DOES NOT PARTICIPATE IN ACTUAL DRAFTING OF CODE, BUT RATHER ATTEMPTS TO SET DOWN POSITION OF GROUP B (OR THE MORE DEVELOPED STATES IN GROUP B) LOOKING TOWARD NEW SECRETARIAT PAPER AND POSSIBLE DRAFTING OF CODE AT A FUTURE MEETING. (D) IF G-77 ABSOLUTELY INSISTS ON USING ITS DRAFT AS A BASIS, DO NOT PARTICIPATE IN DISCUSSION AND THEN, AT END, MAKE CLEAR THAT DRAFT IN NO WAY REPRESENTS CONTRIBUTIONS OR POSITIONS OF GROUP B. THIS WOULD COMPLETELY RESERVE GROUP B'S POSITION VIS-A-VIS A CODE AND WEAKEN FORCE OF CODE WHICH MIGHT EVENTUALLY BE ENACTED AS RESOLUTION OF UNGA.

4. AT MONDAY AFTERNOON COORDINATOR'S MEETING, GROUP 77 MADE CLEAR THAT THEY EXPECT A FINAL DRAFT CODE TO BE RESULT OF CONFERENCE. THEY SAID THAT GROUPS B AND D MAY SUBMIT WHAT THEY WISH, BUT THAT DRAFTING OF CODE MUST GO FORWARD. IN FACT, GROUP 77 INDICATED THAT THEY MIGHT ONLY SUBMIT THEIR DRAFT TO AN "APPROPRIATE BODY", I.E., A DRAFTING GROUP OR PREFERABLY SMALL DRAFTING GROUPS RATHER THAN PLENARY. GROUP B HAD FELT THAT FORMATION OF DRAFTING

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GROUPS SHOULD BE RESISTED, AS THIS WOULD LEAD TO PLAYING GROUP 77'S GAME AND RESULT IN A COMPLETED CODE ADVERSE TO GROUP B INTERESTS.

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ACTION EB-07

INFO OCT-01 IO-10 ISO-00 AF-06 ARA-10 EA-10 EUR-12 NEA-09

OIC-02 JUSE-00 L-02 FRB-01 OMB-01 TAR-01 SP-02 AGR-10

AID-05 CIAE-00 COME-00 INR-07 LAB-04 NSAE-00 SIL-01

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5. USDEL PLANS FOLLOWING COURSE FOR TUESDAY: (A) MAKE INTRODUCTION STATEMENT AT PLENARY WHICH SETS FORTH BASIC U.S. POSITION VIS-A-VIS A CODE OF CONDUCT. WE WILL VOICE FIRM OPPOSITION TO LEGALLY BINDING CODE; ON THIS POINT THE RUSSIAN DELEGATE STATED THAT SOVIETS SHARE THIS VIEW. HE RESPONDED FAVORABLY TO OUR SUGGESTION THAT SOVIETS MAKE SIMILAR INTRODUCTORY STATEMENT. (B) OPPOSE FORMATION OF INDIVIDUAL DRAFTING GROUPS WHICH WOULD CONSIDER G-77 DRAFT. (C) CONTINUE TO WORK WITH GROUP B ON DRAFT STATEMENT OF PRINCIPLES--NOT AS ALTERNATIVE TEXT OF CODE, BUT RATHER AS NORMATIVE STANDARDS.

6. ISSUES WILL BE APPARENTLY HAVE TO BE FACED DEFINITIVELY ON WED., AT LATEST, I.E. WHETHER OR NOT (A) TO AGREE TO FORMATION OF DRAFTING GROUPS, (B) TO SUBMIT ALTERNATIVE DRAFT, AND (C) TO PARTICIPATE IN DISCUSSION ON G-77 DRAFT AT ALL. G-77 SEEMS QUITE PREPARED TO GO FORWARD WITH OR WITHOUT GROUP B PARTICIPATION.

7. DEPENDING ON CHOICES MADE, TWO SCENARIOS FOR USG ARE PRESENTLY ENVISAGED:

SCENARIO A. (1) REFUSE AGREEMENT TO FORM AND PARTICIPATE IN INDIVIDUAL DRAFTING GROUPS. (2) SUBMIT GROUP B DRAFT--NOT AS UNCLASSIFIED

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ALTERNATIVE TEXT OF CODE, BUT RATHER AS STATEMENT OF PRINCIPLES WITH WHICH WE COULD AGREE. (3) IF UNABLE TO HAVE BROAD DISCUSSION IN PLENARY ON CODE, REMAIN IN MEETING BUT REFUSE DISCUSSION ON G-77 DRAFT, STATING OUR HOPE THAT G-77 WOULD BE WILLING TO ENGAGE IN BROAD DISCUSSIONS ON OUTLINE OF A CODE AND NOTE THAT ANY OTHER RESULT OF MEETING DOES NOT MEET WITH USG APPROVAL.

CONSIDERATIONS IN FAVOR OF SCENARIO A ARE:

- (1) MANDATE OF EXPERT GROUP IS ONLY TO PRODUCE AN OUTLINE OF A CODE OF CONDUCT AND NOT A COMPLETED DOCUMENT.
- (2) FORMATION OF DRAFTING GROUPS WOULD PREVENT GROUP B FROM PRESENTING ITS VIEWS ON A CODE IN GENERAL AND PROBLEMS REGARDING GROUP 77 APPROACH IN PARTICULAR. MOREOVER, INDIVIDUAL COUNTRY VIEWS IN DRAFTING GROUPS ARE NOT MADE OF RECORD.
- (3) EVENTUAL DRAFT CODE WILL NO DOUBT BE UNACCEPTABLE TO USG AND PARTICIPATION AT THIS TIME AND IN THIS FORMAT WOULD AID G-77 IN ITS CLAIM OF LEGITIMACY REGARDING A CODE DRAFTED WITH GROUP B (AND USG) INPUT.

SCENARIO B. (1) USDEL WOULD PARTICIPATE IN DRAFTING EXERCISE OF WORKING GROUPS AND/OR PLENARY, STATE OUR VIEWS ON PROPOSED ARTICLES OF A CODE INCLUDING ALTERNATIVE DRAFT LANGUAGE, AND SEEK TO ARRIVE AT MOST ACCEPTABLE DRAFT CODE.

- (2) IN SO DOING, WE WOULD DEFINITIVELY STATE OUR BASIC POSITION VIS-A-VIS A CODE (I.E. A FIRM STATEMENT ON THE LEGALLY BINDING QUESTION) AND OPPOSE THOSE ARTICLES WHICH ARE TOTALLY OBJECTION-ABLE.

CONSIDERATIONS IN FAVOR OF SCENARIO B ARE:

- (1) U.S. WOULD STATE ITS POSITION ON A POINT BY POINT BASIS. SINCE CODE APPEARS TO BE INEVITABLE, WE COULD STRIVE FOR MOST REASONABLE DOCUMENT POSSIBLE.
- (2) GROUP OF EXPERTS WAS CONVENED FOR EXPRESS PURPOSE OF PREPARING A DRAFT OUTLINE OF A CODE OF CONDUCT ON TRANSFER OF TECHNOLOGY. UNCTAD SECRETARIAT, ACTING IN ACCORDANCE WITH PREVIOUS UNCLASSIFIED

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RESOLUTIONS, IS MERELY ASKING THAT WE JOIN IN THIS EXERCISE.

8. ACTION REQUESTED: REQUEST THAT DEPARTMENT CABLE INSTRUCTIONS BY C.O.B. TUESDAY MAY 6 AS TO WHICH OF THE ABOVE SCENARIOS, OR OTHER COURSES OF ACTION, THE USDEL SHOULD FOLLOW.

ABRAMS

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## Message Attributes

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